



PATENT  
Docket No.: 57909/391

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s) :	Becker et al.	)	Examiner:
		)	Rodney P. Swartz
Serial No. :	10/674,755	)	
		)	Art Unit:
Cnfrm. No. :	5497	)	1645
		)	
Filed :	September 30, 2003	)	
		)	
For :	STRAIN SELECTION OF PNEUMOCOCCAL	)	
	SURFACE PROTEINS	)	
		)	

TERMINAL DISCLAIMER TO OBVIATE A DOUBLE PATENTING  
REJECTION OVER A PRIOR PATENT

06/09/2006 BABRAHA1 00000023 10674755

02 FC:2814

65.00 OP

**Mail Stop Amendment**

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Dear Sir:

Petitioner, The UAB Research Foundation, is the owner of 100 percent interest in the instant application. Petitioner hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. §§ 154 to 156 and 173, as presently shortened by any terminal disclaimer, of prior U.S. Patent No. 5,955,089. Petitioner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, petitioner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. §§ 154 to 156 and 173 of the prior patent, as presently shortened by any terminal disclaimer, in the event that it later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR § 1.321,

has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

The assignee of the entire right, title and interest of the above-identified application, hereby confirms that an assignment for the subject application was recorded on May 5, 2000, at Reel 010788/Frame 0389 in the U.S. Patent and Trademark Office.

The undersigned has reviewed all the documents in the chain of title of the patent application identified above and, to the best of undersigned's knowledge and belief, title is in the assignee identified above.

For submission on behalf of an organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned (whose title is supplied below) is empowered to act on behalf of the organization.

Enclosed is a check to cover the \$65 terminal disclaimer fee under 37 CFR § 1.20(d). Please charge any additional fees or credit any overpayment to Deposit Account No. 14-1138. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

Date: June 6, 2006



Alice Y. Choi  
Registration No. 45,758  
Attorney for Applicants

NIXON PEABODY LLP  
Clinton Square, P.O. Box 31051  
Rochester, New York 14603-1051  
Telephone: (585) 263-1508  
Facsimile: (585) 263-1600

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR § 1.8(a)]

I hereby certify that this correspondence is being:

- ☒ deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450
- ☐ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) \_\_\_\_\_.

June 6, 2006

Date



Ruth R. Smith